

CHAPTER 24:05:18

RECOVERY OF FUNDS FOR MISCLASSIFIED CHILDREN  
(Repealed)

Section

- ~~24:05:18:01 — State to notify agencies of responsibility.~~
- ~~24:05:18:02 — Methods for providing notice.~~
- ~~24:05:18:03 — Procedures for identification of misclassified children.~~
- ~~24:05:18:04 — Reevaluation.~~
- ~~24:05:18:05 — Program reviews.~~
- ~~24:05:18:06 — Notice of misclassified students.~~
- ~~24:05:18:07 — Penalty for failure to reimburse.~~
- ~~24:05:18:08 — Right to appeal.~~

~~—— **24:05:18:01. State to notify agencies of responsibility.** The division shall notify all public agencies regarding their responsibility to identify, report, and aid in the recovery of funds appropriated for services provided to misclassified children.~~

~~—— **Source:** 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996.~~

~~—— **General Authority:** SDCL 13-37-1.1.~~

~~—— **Law Implemented:** SDCL 13-37-1.1.~~

~~—— **24:05:18:02. Methods for providing notice.** Notice regarding recovery of funds for misclassified children shall be provided by the division as follows:~~

~~—— (1) Instructions distributed for the December 1 child count shall include a section indicating the school district's responsibility to identify misclassified children and describing the procedures for reporting such children; and~~

~~—— (2) Instructions contained in the local education agency request for the Individuals with Disabilities Act, Part B flow-through support shall contain a statement indicating the district's and other school districts responsibility to identify, report, and aid in the recovery of funds for a misclassified student.~~

~~—— **Source:** 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.~~

~~—— **General Authority:** SDCL 13-37-1.1.~~

~~—— **Law Implemented:** SDCL 13-37-1.1.~~

~~—— **Cross-References:** To December 1 child count rule, ch 24:05:17; to flow-through support applications rule, ch 24:05:20.~~

~~24:05:18:03. Procedures for identification of misclassified children.~~ Each public agency must maintain specific documentation as to the identification, evaluation, program, and placement of each child with disabilities. Identification of misclassified students shall be determined through the following means:

~~(1) The annual process conducted by public agencies for updating individual education plans and the reevaluation of students with disabilities done at least once every three years;~~

~~(2) Program administrative reviews implemented by division staff in conformance with the monitoring standards contained in § 24:05:18:05 governing the provision of special education. This review includes an analysis of decisions made as the result of impartial due process hearings;~~

~~(3) Investigations conducted under the state's complaint management system in chapter 24:05:15; and~~

~~(4) The review of district comprehensive plans conducted by division staff.~~

~~Source:~~ 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

~~General Authority:~~ SDCL 13-37-1.1.

~~Law Implemented:~~ SDCL 13-37-1.1.

~~24:05:18:04. Reevaluation.~~ The secretary may require a local education agency to reevaluate any child whose eligibility for services under Part B is questioned as a result of local or state monitoring or document review or the investigation of a complaint. The local agency shall submit requested evaluation data to the Division of Education Services and Resources, Office of Special Education, for review and analysis of the child's eligibility for services under Part B of the Individuals with Disabilities Act.

~~Source:~~ 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996.

~~General Authority:~~ SDCL 13-37-1.1.

~~Law Implemented:~~ SDCL 13-37-1.1.

~~24:05:18:05. Program reviews.~~ The division shall conduct program administrative reviews to determine whether students have been classified according to this article. If, as a result of these reviews, the division determines that Individuals with Disabilities Education Act, Part B funds have been made available to an eligible public agency as the result of a misclassified child, the division shall begin recovery procedures.

~~Source:~~ 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

~~General Authority:~~ SDCL 13-37-1.1.

~~Law Implemented:~~ SDCL 13-37-1.1.

~~—— **Cross-Reference:** Recovery of funds for misclassified children, ch 24:05:18.~~

~~—— **24:05:18:06. Notice of misclassified students.** A formal notice shall be transmitted to the public agency identified as reporting misclassified students. The notice shall include a statement that includes the following:~~

- ~~—— (1) The number of students misclassified;~~
- ~~—— (2) The means by which the misclassification of students was discovered;~~
- ~~—— (3) How, in each instance, the occurrence of misclassification was determined; and~~
- ~~—— (4) The amount, schedule, and method of returning funds for misclassified students to the division.~~

~~—— **Source:** 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.~~

~~—— **General Authority:** SDCL 13-37-1.1.~~

~~—— **Law Implemented:** SDCL 13-37-1.1.~~

~~—— **24:05:18:07. Penalty for failure to reimburse.** If the public agency does not reimburse the state within 90 days after notification of exception, the division may withhold future Individuals with Disabilities Education Act, Part B funds to which the public agency is entitled or may take other action to recover the funds. The division shall use state statutory authority contained in SDCL 4-11 authorizing the recovery of funds in cases of public agency refusal to repay misapplied funds.~~

~~—— **Source:** 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996.~~

~~—— **General Authority:** SDCL 13-37-1.1.~~

~~—— **Law Implemented:** SDCL 13-37-1.1.~~

~~—— **24:05:18:08. Right to appeal.** If a school district disagrees with the findings of misclassification determined by the division, the district may request a hearing by following the contested case procedures in SDCL 1-26.~~

~~—— **Source:** 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996.~~

~~—— **General Authority:** SDCL 13-37-1.1.~~

~~—— **Law Implemented:** SDCL 13-37-1.1.~~